



31

**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *[Signature]*

FROM: Lynn Vous, Assistant County Attorney *[Signature]*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
Lenor M. Bromberg, Principal Engineer/Engineering *[Signature]*

DATE: July 19, 2005

SUBJECT: Purchase Agreement Authorization
Owners: John M. and Kathleen K. Chenet
Parcel No. 104
Cross Seminole Trail project

This memorandum requests authorization by the Board of County Commissioners (BCC) and execution by the Chairman of a purchase agreement for Parcel No. 104. The parcel is required for the Cross Seminole Trail project. The purchase price is \$47,000.00, with no fees and costs incurred by the property owners.

I THE PROPERTY

A. Location Data

The property is located along the south side of General Hutchinson Parkway approximately 1,212 feet west of Timocuan Way within unincorporated Seminole County, Florida.

1. Location Map (Exhibit A);
2. Sketch (Exhibit B); and
3. Purchase Agreement (Exhibit C)

B. Address

777 General Hutchinson Parkway
Longwood, Florida 32750

C. Description

The subject is a 4.47 acre rectangular shaped parcel. The subject site is improved with a 1,624 square foot single-family residence built in 1982 and a 475 square foot single-family residence built in 1970.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2005-R-102 on June 14, 2005, authorizing the acquisition of the referenced property, and finding that the construction of the Cross Seminole Trail project serves a county and public purpose and is in the best interests of the citizens of Seminole County.

III ACQUISITION/REMAINDER

The proposed acquisition is a rectangular shaped strip off the frontage of the property. The taking contains 8,580 square feet (0.19697 acres), leaving a remainder of 4.273 acres.

IV APPRAISED VALUE

The County's appraised value amount is \$24,700.00. The County's appraisal was prepared by Florida Realty Analysts, Inc. and was approved by the County's MAI designated staff appraiser.

V BINDING OFFER/NEGOTIATIONS

On April 26, 2005, the BCC authorized a binding written offer in the amount of \$24,700.00. Thereafter, County staff negotiated this proposed settlement agreement with the property owners in the amount of \$47,000.00.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

Mrs. Chenet's family has occupied the residence on the parent tract property since 1970. In fact, Mrs. Chenet worked at the gift shop that was formerly a part of Big Tree Park. The owners are extremely concerned about the impacts to their property caused by a trail traversing their frontage. They have already experienced numerous instances of trespassers wandering onto their property from the park. They fear that the trail passing directly in front of their property will lead to even more confused trespassers. They believed that County staff told them that the trail would go around the back of their property into Big Tree Park, and were extremely upset when they were told the trail would cross the front of their property. In order to address this concern the owners have decided to install a fence across the front of their property, contiguous to the new trail, with an electronic gate. They received various estimates which ranged from \$7,000.00 - \$10,000.00.

The property owners also dispute the appraiser's finding that their property has not suffered any damages caused by the location of the trail in their front yard. They had their property appraised approximately 3 years ago and received an opinion of value of \$350,000.00 for the parent tract, which is less than the County's appraiser says the property is worth today.

Although the proposed settlement amount is \$22,300.00 more than the appraised value of the acquisition, it is reasonable under the circumstances of this proposed acquisition. The Chenets are adamant that they will not accept less than the \$47,000.00 proposed settlement. If the settlement is not accepted, the County will have to condemn the property. Since the property is to be used for a recreational trail, the legal standard to condemn the property is stricter than for infrastructure improvements. The settlement will avoid the uncertainties inherent in the eminent domain process, and allow the Cross Seminole Trail project to proceed.

VII RECOMMENDATION

County staff recommends that the BCC authorize settlement in the amount of \$47,000.00, with no fees and expenses incurred by the property owners.

LV/krc

Attachments:

Location Map (Exhibit A)

Sketch (Exhibit B)

Purchase Agreement (Exhibit C)

P:\USERS\LV\VOUIS\SETTLEMENT MEMOS\CROSS SEMINOLE TRAIL\AGENDA ITEM CST 104 CHENET.DOC

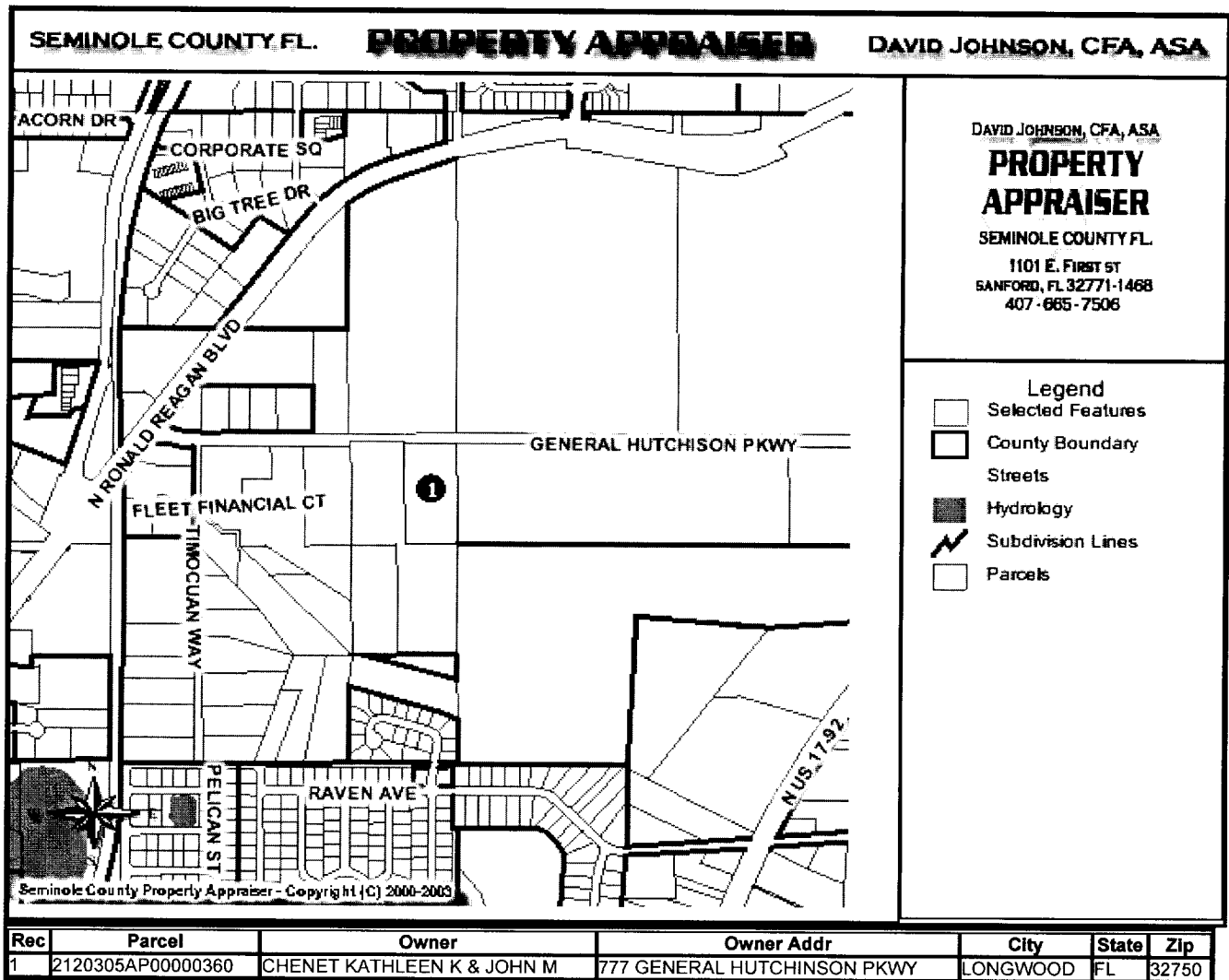
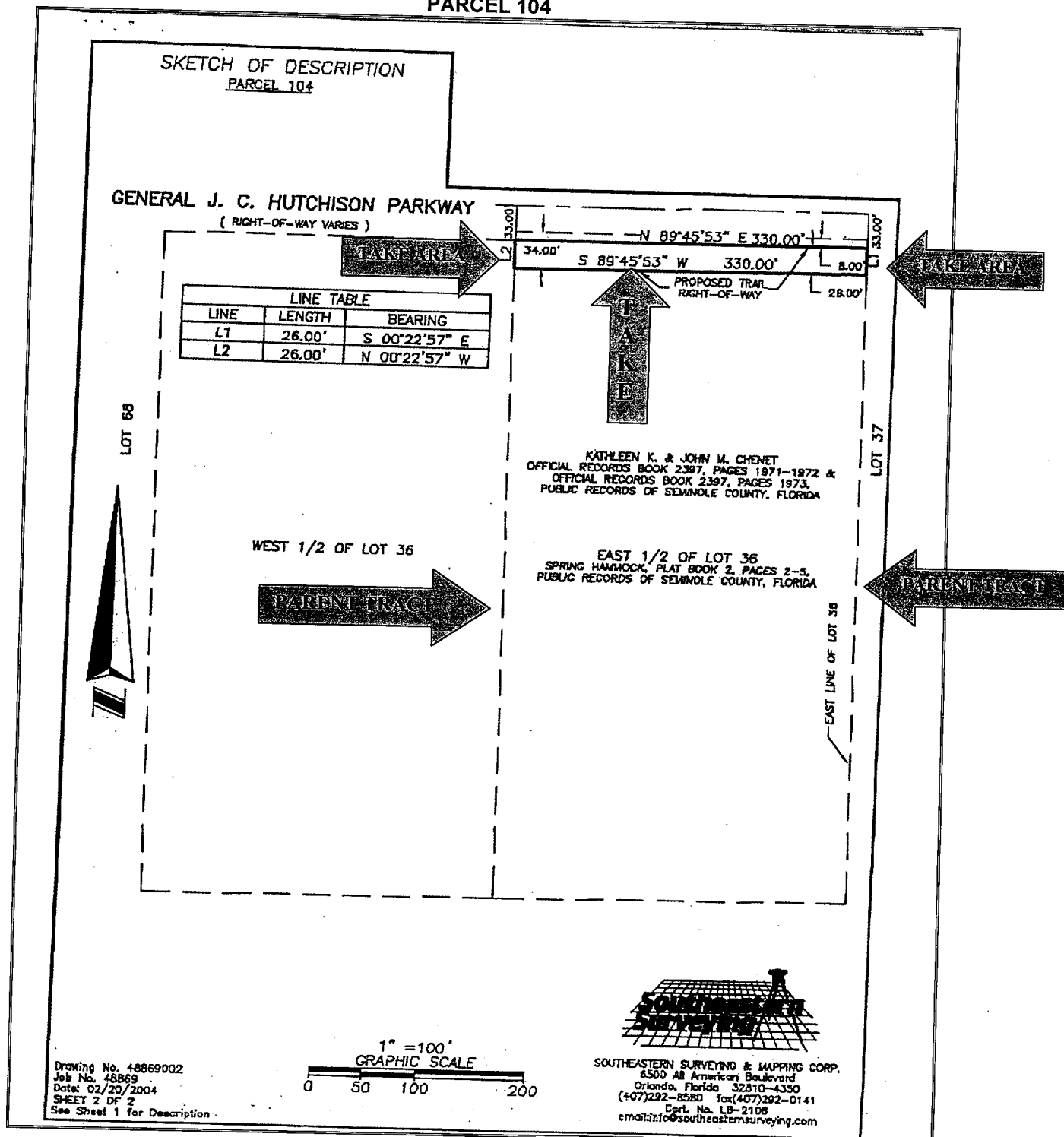


EXHIBIT A

PARCEL SKETCH

Parent tract	4.47 gross acres or 3.80 usable acres
Fee Acquisition (Take Area)	8,580 square feet or 0.19697 acres
Remainder	4.273 gross acres or 3.603 usable acres

PARCEL 104



Parcel No.: 104
Project: Cross Seminole I

Seminole County
Florida Realty Analysts, Inc.

EXHIBIT B

**PURCHASE AGREEMENT
RECREATIONAL TRAIL EASEMENT**

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this _____ day of _____, 2005, by and between JOHN M. CHENET AND KATHLEEN K. CHENET, whose address is 777 General Hutchinson Parkway, Longwood, Florida 32750, hereinafter referred to as "OWNERS," and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY."

WITNESSETH:

WHEREAS, the COUNTY requires the hereinafter described property for a recreational trail project in Seminole County;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, OWNERS hereby agree to sell and COUNTY hereby agrees to buy an easement affecting the following property upon the following terms and conditions:

I. LEGAL DESCRIPTION

Cross Seminole Trail
Recreational Trail Easement
Parcel No. 104

See attached Exhibit "A"

Parcel I. D. Number: 21-20-30-5AP-0000-0360

II. INSTRUMENT OF CONVEYANCE

A copy of the Easement to be conveyed by the OWNERS to the COUNTY is attached.

See attached Exhibit "B"

III. PURCHASE PRICE

(a) OWNERS agree to sell and convey the above described property of the above referenced project by permanent Recreational Trail Easement, free of liens and encumbrances, unto COUNTY for the sum of FORTY SEVEN THOUSAND DOLLARS

(\$47,000.00). The above amount includes all compensation due as a result of this acquisition to the OWNERS for any reason and for any account whatsoever. The instrument by which OWNERS will grant the easement is attached hereto and incorporated herein by reference.

(b) COUNTY shall be responsible for the following closing costs: recording fees for Recreational Trail Easement and Title Insurance Policy issued to the COUNTY by a title insurance company of the COUNTY's choice and all expenses to record instruments necessary to provide title unto COUNTY.

(c) OWNERS covenant that there are no real estate commissions due any licensed real estate broker and further agree to defend against and pay any valid claims made in regard to this purchase relating to covenants made herein by the OWNERS.

IV. CONDITIONS

(a) COUNTY shall pay to the OWNERS the sum as described in Item II., above, upon the proper execution and delivery of all the instruments required to complete the above purchase and sale to the designated closing agent. The OWNERS agree to close within seven (7) days of notice by the COUNTY or the COUNTY's closing agent that a closing is ready to occur.

(b) OWNERS agree to surrender nonexclusive possession of the property upon the date of delivery of the instruments and closing of this Agreement.

(c) OWNERS warrant that there are no facts known to OWNERS materially affecting the value of the properties which are not readily observable by COUNTY or which have not been disclosed to COUNTY.

(d) The instrument(s) of conveyance to be utilized at closing shall, in addition to containing all other common law covenants through the use of a Recreational Trail Easement, also include the covenant of further assurances.

(e) The OWNERS shall fully comply with *Section 286.23, Florida Statutes*, to the extent that said statute is applicable.

(f) In the event that COUNTY subsequently abandons this project after execution of this Agreement, but before closing, this Agreement shall be null and void.

(g) In the event that difficulties arise as to clearing title sufficient to consummate a closing of this Purchase Agreement or difficulties occur in the issuance of a title insurance commitment which is acceptable to the COUNTY; this Agreement shall survive the filing of any eminent domain action by the COUNTY and shall serve as a joint stipulation regarding all valuation issues and fees and costs matters in any condemnation proceeding initiated by the COUNTY relating to the real property herein described. The

OWNERS agree that, in accordance with any request made by the COUNTY, the OWNERS shall execute any and all instruments, pleadings, documents and agreements upon litigation reflecting the full settlement as set forth herein. The OWNERS agree not to oppose the COUNTY's condemnation proceedings in any way. The OWNERS may, however, assert their rights against other claimants in apportionment proceedings.

(h) As part of the consideration for this Purchase Agreement, OWNERS hereby grant to COUNTY, its employees, agents, consulting engineers, contractors and other representatives the right to enter upon and to have nonexclusive possession of the property described in Exhibit A to this Agreement. The right of entry shall commence ninety (90) days after the execution of this Agreement by COUNTY, and shall continue until closing occurs, or if closing cannot occur, until the condemnation proceedings to acquire the property have been completed. Aside from this Agreement, no further notification of COUNTY's intent to enter the property is required. This right of entry is for the purpose of construction of the Cross Seminole Trail Project and so that the COUNTY's construction schedule can be maintained notwithstanding issues which may delay closing in a timely manner. OWNERS will not receive from COUNTY any additional compensation beyond that set forth in this Purchase Agreement during the period of time the COUNTY occupies the above described property for the purpose set forth above for the right to enter and possess the property before conveyance of title.

(i) The COUNTY shall be solely responsible for all of COUNTY activities conducted on the property. OWNERS shall not be considered agents or employees of COUNTY for any reason whatsoever on account of the Agreement. §375.251, *Florida Statutes*, shall apply to OWNERS as a further limitation on any liability on the part of OWNERS.

(j) The OWNERS state that the OWNERS have not engaged in any action that would create a conflict of interest in the performance of their obligations under this Agreement with the COUNTY which would violate or cause others to violate the provisions of *Part III, Chapter 112, Florida Statutes*, relating to ethics in government.

(k) COUNTY reaffirms that the COUNTY shall reconstruct and reconnect the driveway apron, (14 feet wide) to the new gated entrance, (14 feet wide), of the OWNERS' property, during the construction of the Cross Seminole Trail – Phase I project.

(l) Upon OWNERS request, the COUNTY shall flag-stake the southern boundary of the Recreational Trail Easement every fifty (50') feet in order for the OWNERS to reestablish and construct a new fence and associated gated entrance, (prior to construction of the Cross Seminole Trail – Phase I project).

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their respective names on the date first above written.

WITNESSES:

Henry W Chenet Jr
SIGNATURE
HENRY W CHENET JR
PRINT NAME

Nancy R Chenet
SIGNATURE
Nancy R Chenet
PRINT NAME

Henry W Chenet Jr
SIGNATURE
HENRY W CHENET JR
PRINT NAME

Nancy R Chenet
SIGNATURE
Nancy R Chenet
PRINT NAME

PROPERTY OWNERS:

John M Chenet
JOHN M. CHENET

ADDRESS: 777 General Hutchinson Parkway
Longwood, Florida 32750

Kathleen K Chenet
KATHLEEN K. CHENET

ADDRESS: 777 General Hutchinson Parkway
Longwood, Florida 32750

ATTEST:

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON D. HENLEY, Chairman

Date: _____

For the use and reliance of
Seminole County only. Ap-
proved as to form and legal
sufficiency.

As authorized for execution by the Board of
County Commissioners at its _____,
2005, regular meeting.

County Attorney

DESCRIPTION

PARCEL 104

PURPOSE : RECREATIONAL TRAIL

Description :

A portion of Lot 36, Spring Hammock as recorded in Plat Book 2, Pages 2 - 5, Public Records of Seminole County, Florida, being more particularly described as follows :

The South 26.00 feet of the North 34.00 feet of the East 1/2 of Lot 36, Spring Hammock as recorded in Plat Book 2, Pages 2 - 5, Public Records of Seminole County, Florida.

Containing 8,580 square feet more or less.

SURVEYORS NOTES:

1. Bearings as shown hereon are based on the East line of Lot 36, Plan of Spring Hammock, Plat Book 2, Pages 2-5, Public Records of Seminole County, Florida, being S 00°24'00" E, assumed.
2. I hereby certify that the "Sketch of Description" of the above described property is true and correct to the best of my knowledge and belief as recently drawn under my direction and that it meets the Minimum Technical Standards for Land Surveying CH. 61G17-6 requirements.
3. Not valid without the original signature and raised seal of a Florida licensed surveyor and mapper.

DESCRIPTION

FOR

Vanasse, Hagen &
Brustlin, Inc.

EXHIBIT A

Date:

02/20/2004 KR

Job No.:

48869

Scale:

1" = 100'

CH. 61G17-6, Florida Administrative
Code requires that a legal description
drawing bear the notation that

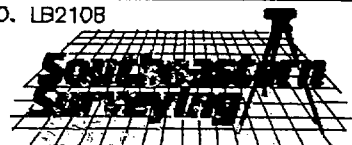
THIS IS NOT A SURVEY.

REVISED : 10/25/2004

SHEET 1 OF 2
SEE SHEET 2 FOR SKETCH

CERT. NO. LB2108

48869001



SOUTHEASTERN SURVEYING & MAPPING CORP.
6500 All American Boulevard
Orlando, Florida 32810-4350
(407) 292-8580 fax (407) 292-0141
email: info@southeasternsurveying.com

Gary B. Krick
GARY B. KRICK
REGISTERED LAND SURVEYOR NO. 4245

SKETCH OF DESCRIPTION
PARCEL 104

GENERAL J. C. HUTCHISON PARKWAY

(RIGHT-OF-WAY VARIES)

LINE TABLE		
LINE	LENGTH	BEARING
L1	26.00'	S 00°22'57" E
L2	26.00'	N 00°22'57" W

LOT 68

WEST 1/2 OF LOT 36

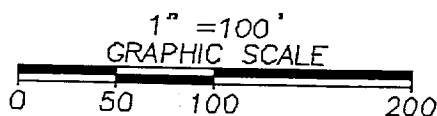
KATHLEEN K. & JOHN M. CHENET
OFFICIAL RECORDS BOOK 2397, PAGES 1971-1972 &
OFFICIAL RECORDS BOOK 2397, PAGES 1973,
PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA

EAST 1/2 OF LOT 36
SPRING HAMMOCK, PLAT BOOK 2, PAGES 2-5,
PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA

EAST LINE OF LOT 36

L1 33.00'

LOT 37



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Orlando, Florida 32810-4350
(407)292-8580 fax(407)292-0141
Cert. No. LB-2108
email:info@southeasternsurveying.com

**KATHLEEN K. CHENET AND JOHN M. CHENET / SEMINOLE COUNTY
RECREATIONAL TRAIL EASEMENT**

THIS RECREATIONAL TRAIL EASEMENT is made and entered this _____ day of _____, 2005, by and between KATHLEEN K. CHENET and JOHN M. CHENET, 777 General Hutchinson Parkway, Longwood, Florida 32750, hereinafter referred to as the GRANTORS, and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 E. First Street, Sanford, Florida 32771, hereinafter referred to as the GRANTEE.

WITNESSETH:

FOR AND IN CONSIDERATION OF the sum of ONE AND NO/100 DOLLARS (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the GRANTORS do hereby grant, sell, and convey to the GRANTEE, its successors and assigns, a permanent nonexclusive easement for recreational trail facilities over, under, upon and through the following described lands situated in Seminole County, Florida as follows:

See the attached Exhibit "A", which is incorporated into and
made part of this Agreement

TO HAVE AND TO HOLD said easement unto said GRANTEE and its assigns forever.

The GRANTEE, its successors, appointees and assigns, are granted the right, privilege, and authority to construct a public recreational trail for the purpose of facilitating pedestrian, bicycle, equestrian and all other modes of travel, of a non-motor vehicular type and nature, for the benefit of Seminole County. The GRANTEE may improve the easement with impervious surfaces, bridges, walkways, structures, lighting, landscaping, swales and drainage systems, signage, communication systems, utilities appurtenant to use, and all other facilities it deems necessary to accommodate public travel and use in the GRANTEE's recreational trail system. The GRANTEE shall have the right to construct, operate, maintain and improve the easement for the benefit of the public along with the right, privilege and authority to remove, replace, repair and enlarge said trail improvements, (provided any such enlarging may not encroach outside the described easement area), and to trim and remove roots, trees, shrubs, bushes, and plants, and remove fences or other improvements which may affect the use and/or operation of the trail improvements installed by the GRANTEE. Title to the improvements constructed hereunder shall be vested in and remain vested in the GRANTEE, its successors, appointees, and/or assigns. Houses, buildings, fences, and any other similar structures or improvements which would adversely impact the public use of a recreational trail shall not be constructed upon or placed in this easement by the GRANTORS, or its heirs, successors, or assigns.

DOCUMENT PREPARED BY:

LYNN M. VOUIS
ASSISTANT COUNTY ATTORNEY
SEMINOLE COUNTY
1101 EAST FIRST STREET
SANFORD, FL 32771

EXHIBIT B

This grant of easement is subject to matters of record, including without implied limitation property taxes, and any existing easements for public highway or roads, railroads, laterals, ditches, canals, pipelines, water lines, sewer lines, electrical transmission or distribution lines and telephone and cable television lines encumbering the land herein described. The GRANTORS covenant that they are lawfully seized and possessed of the described real property (Exhibit "A"), have good and lawful right and power to sell and convey it, and that the property is free and clear of all liens and encumbrances, except as herein stated, and, accordingly, the GRANTORS will forever warrant and defend the title and terms to this recreational trail easement and the quiet possession thereof against all claims and demands of all other individuals and entities.

GRANTEE shall be solely responsible for all activities and use of the easement granted hereby and of any improvements placed thereon. Notice is hereby given that GRANTORS are protected by, and shall be entitled to all benefits and protections afforded by, *Section 375.251, Florida Statutes*. Accordingly, GRANTORS' obligations and liabilities arising from or with respect to the easement granted hereby and of any improvements placed thereon are limited by such statute.

GRANTEE covenants and agrees that after any construction work performed by or on behalf of GRANTEE has been completed, GRANTEE will, at GRANTEE's sole cost and expense, promptly remove GRANTEE's construction equipment and materials from the easement property and will repair, replace, and restore the area of that property, or improvements thereon, that are damaged or disturbed as a consequence of the work.

The easement granted hereby is nonexclusive. GRANTORS shall have the right to use the easement area in any manner that does not interfere with the uses allowed GRANTEE and the public generally by this document. GRANTORS retain all rights to satisfy and include said easement parcels in applicable land development code requirements including: greenspace and landscape buffer requirements, buildable acreage calculations, and other land development code satisfactions and requirements consistent with the requirements of the applicable land development codes.

GRANTEE shall maintain the easement area and any improvements placed therein by or on behalf of GRANTEE in a safe and attractive condition.

GRANTEE shall not permit any claim, lien, or other encumbrance arising from construction work or GRANTEE's use of the easement property to accrue against or attach to the easement property or the interest of GRANTORS in adjacent lands.

GRANTEE shall secure all permits and approvals required for GRANTEE's improvement and use of the easement area. GRANTEE will not use, or allow to be used, the easement area or improvements thereon in any illegal manner.

IN WITNESS WHEREOF said GRANTORS has hereunto signed and sealed this easement on the day and year first written above.

WITNESSES

Signature

Printed Named

Signature

Printed Named

Signature

Printed Named

Signature

Printed Named

STATE OF _____)

COUNTY OF _____)

I HEREBY CERTIFY that, on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared _____, as _____, who are well known to me or who have produced _____ as identification.

WITNESS my hand and official seal in the County and State aforesaid this _____ day of _____, 2005.

GRANTORS

KATHLEEN K. CHENET

JOHN M. CHENET

Notary Public, in and for the
County and State Aforementioned
My Commission Expires:

Attachment:
Exhibit "A" – Legal Description

P:\USERS\KCURRY\MY DOCUMENTS\IACQ\CROSS SEMINOLE TRAIL\CHENET RECREATIONAL TRAIL EASEMENT.DOC

DESCRIPTION

PARCEL 104

PURPOSE : RECREATIONAL TRAIL

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SHEET 1 OF 2
SEE SHEET 2 FOR SKETCH



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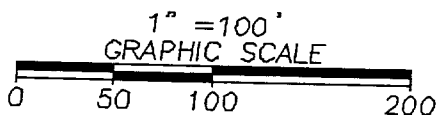
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EAST LINE OF LOT 36

LOT 37



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